

## **MITIGATED NEGATIVE DECLARATION**

April 1, 2004

Project Name: Van Cleve Tentative Parcel Map

Project Number(s): TPM 20702; ER #02-20-001

**This Document is Considered Draft Until it is Adopted by the Appropriate  
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
  - b. Environmental Analysis Form and attached extended studies for Archaeology, Biology, Hydrology, and Stormwater.
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.
2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

- A. Prior to approval of grading plans or improvement plans, and prior to approval of the Parcel Map the applicant shall:

Provide for the approval of the Director of Planning and Land Use evidence that 0.35 acres of coast live oak woodland habitat credit has been secured in a County approved mitigation bank located within the Multiple Species Conservation Program (MSCP). Evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.

In lieu of land in a mitigation bank, evidence that 0.35 acres of coast live oak woodland habitat in MSCP pre-approved mitigation area (PAMA) has been obtained, protected by easement to the County and the California Department of Fish and Game with adequate management to the satisfaction of the Director of Planning and Land Use.

- B. Prior to issuance of grading or construction permits or on the Parcel Map, whichever comes first, the applicant shall:

1. Grant to the County of San Diego and the California Department of Fish and Game an open space or conservation easement as shown on the Open Space Exhibit dated March 18, 2004 on file with DPLU as Environmental Review Number 02-20-001. This easement is for the protection of biological resources including: 1.67 acres of coast live oak woodland; 32.67 acres of southern mixed chaparral; and, 0.52 acres of disturbed habitat and prohibits all of the following on any portion of the land subject to said easement: grading;

excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation.

The sole exception(s) to this prohibition is:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts, and any subsequent amendments thereto.

NOTICE: The above gives the applicant the option to voluntarily dedicate a Conservation Easement. Should the applicant choose to dedicate a Conservation Easement (instead of an open space easement) and upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1 (A) of the County's Implementing Agreement for the Multiple Species Conservation Program Plan, Third Party Beneficiary Status can be attained for the project. Third Party Beneficiary Status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP Plan while undertaking land development activities in conformance with an approval granted by the County in compliance with the County's Implementing Agreement. Should Third Party Beneficiary Status not be obtained, the applicant will be required to obtain take authorization for the State and Federal listed species covered by the MSCP Plan through the traditional permitting processes administered by the State and Federal Wildlife Agencies.

2. Grant to the County of San Diego an easement which prohibits the construction or placement of any residence, garage, or other accessory structure designed or intended for occupancy by humans

or animals, within those portions of Parcels 1 and 2 as shown on Open Space Exhibit dated March 18, 2004. The existing agricultural building on parcel 1 and the existing corral on parcels 1 and 2 are permitted within the easement provided no expansion occurs. The purpose of this easement is to prohibit such structures, because an area containing sensitive biological resources (encumbered by an open space easement) exists adjacent to said area, and the clearing of vegetation or other fuel modification measures which are normally required by fire protection officials within a specified distance of such structures, is potentially damaging to the integrity of those biological resources. The easement shall permit the construction or placement of only the following:

- a. Decking, fences, and similar facilities.
  - b. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.
  - c. Structures located no less than 30 feet from the nearest biological open space easement boundary, provided that the structures meet the minimum Fire-Resistive Construction Requirements as defined by the Fire Protection Authority (FPA) having jurisdiction over the property and that FPA has approved in writing a reduction in the vegetation clearing / fuel modification requirements so that they will not be required within any portion of the biological open space easement.
3. Grant to the County of San Diego an open space easement over portions of parcel 2 as shown on the Open Space Exhibit, dated March 18, 2004. This easement is for the protection of archaeological site CA-SDI-16790 and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space.

The sole exception(s) to this prohibition is:

- a. Scientific investigations conducted pursuant to a research design prepared by an archeologist certified by the Register of Professional Archaeologists and approved by the Director of Planning and Land Use.
  - b. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
  - c. Uses, activities, and placement of structures expressly permitted by the Director of Planning and Land Use, whose permission may be given only after following the procedures and complying with all requirements applicable to an Administrative Permit pursuant to The Zoning Ordinance of the County of San Diego.
- C. Prior to obtaining any building or grading permit or improvement plans, the applicant shall:

Submit to the Director, Department of Planning and Land Use a signed, stamped statement from a California Registered Engineer, or licensed surveyor that temporary fences have been placed to protect from inadvertent disturbance all open space easement(s) that do not allow grading, brushing or clearing. Temporary fencing is required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary. The temporary fence location shall be identified in the field by a California Registered Engineer or licensed surveyor and positioned between the open space easement boundary and any area of proposed disturbance. All temporary fencing shall be removed only after the conclusion of such activity. The temporary fencing condition shall be released on a parcel-by-parcel basis.

  - 1. Prepare and implement a temporary fencing plan for the protection of archaeological site CA-SDI-16790 during any grading activities within one hundred feet (100') of archaeological easement "A", as shown on the Open Space Exhibit dated March 18, 2004. The fencing plan shall be prepared in consultation with a qualified archaeologist, to the satisfaction of the Director of the Department of Planning and Land Use. The fenced area should include a buffer sufficient to protect the archaeological site. The fence shall be installed under the supervision of the qualified archaeologist prior to commencement of grading or brushing and be removed only after grading operations have been completed.

April 1, 2004

- D. Prior to issuance of grading or construction permits and prior to approval of the Parcel Map, the applicant shall:

Submit to the Director, Department of Planning and Land Use evidence that permanent signs have been placed to protect all Open Space Easements in accordance with on the Open Space Fencing and Signage Exhibit dated March 18, 2004 on file with the Department of Planning and Land Use as File Number ER 02-20-001. Evidence shall include photographs of a sign placed on the project and a stamped, signed statement from a California Registered Engineer, or licensed surveyor that permanent signs have been placed on the open space easement boundaries in accordance with the requirements of this condition. The signs must be corrosion resistant and 6" x 9" minimum in size, on posts not less than 3 feet in height from the ground surface and must state the following:

**"Sensitive Environmental Resources  
Disturbance Beyond this Point is Restricted  
by Easement**

Information:

Contact County of San Diego, Department of Planning and Land Use  
Ref: ER 02-20-001"

- E. Prior to occupancy of any dwelling unit and/or the conclusion of any grading activity:

Submit to the Director, Department of Planning and Land Use a signed, stamped statement from a California Registered Engineer, or licensed surveyor that permanent fences or walls have been placed to protect from inadvertent disturbance all open space easement(s) that do not allow grading, brushing or clearing. Permanent fencing or walls are required in all locations of the project as shown in the Open Space Fencing and Signage Exhibit dated March 18, 2004 on file as ER 02-20-001 with the Department of Planning and Land Use. The permanent fence location(s) shall be identified in the field by a California Registered Engineer or licensed surveyor and positioned just outside of the open space easement. Photographs and a brief description of design and materials used shall be submitted with the statement from the California Registered Engineer. Construction materials and fence and/or wall design are subject to approval by the Department of Planning and Land Use. Minimum fence or wall height shall be 4 feet.

- F. Cause to be placed on grading and/ or improvement plans and the Parcel Map, the following:

“Restrict all brushing, clearing and/or grading such that none will be allowed within 300 feet of an occupied nest during the breeding season of raptors. This is defined as occurring between February 1 to June 1. The Director of Planning and Land Use, may waive this condition, through written concurrence from the United States Fish and Wildlife Service and the California Department of Fish and Game, that no raptor nests are present in the vicinity of the brushing, clearing or grading.”

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

- A. Prior to recordation, a registered civil engineer, a registered traffic engineer, or a licensed land surveyor shall provide a signed statement that: "Physically, there is a minimum of four hundred fifty feet (450') of unobstructed sight distance in both directions along Deerhorn Valley Road, from the project entrance road per the Design Standards of Section 6.1.E of the County of San Diego Public Road Standards (approved June 30, 1999)." The vegetation, topography currently obstructing the sight distance shall be removed or cut back. All of the foregoing to the satisfaction of the Director of Public Works.
- B. The private easement road from the northwest corner of Parcel 2; thence westerly to the northwest corner of Parcel 1; thence northerly to Deerhorn Valley Road; shall be graded twenty-eight feet (28') wide and improved twenty-four feet (24') wide with disintegrated granite. The existing pavement may remain and shall be widened with disintegrated granite to provide a constant width of twenty-four feet (24'). [NOTE: the 24' width may only be narrowed to the following widths and locations:

WIDTH	DISTANCE (AND LIMITS) FROM DEERHORN VALLEY ROAD
20'	0' to 42' entry gate
16'	296' to 369' where boulders are

April 1, 2004

22'

1047' boulder

All distressed sections shall be replaced. NOTE: Where grades exceed 8%, or are less than 1.0%, asphaltic concrete shall be required in lieu of disintegrated granite. The Improvement and Design Standards of Section 3.1(C) of the County Standards for Private Roads for one hundred one (101) to seven hundred fifty (750) trips shall apply. All of the foregoing to the satisfaction of the Director of Public Works.

- C. For the duration of this project-Comply with all applicable stormwater regulations at all times. The activities proposed under this application are subject to enforcement under permits from the San Diego Regional Water Quality Control Board (RWQCB) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (Ordinance No. 9424 and Ordinance No. 9426) and all other applicable ordinances and standards. This includes requirements for materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas greater than one (1) acre require that the property owner keep additional and updated information onsite concerning stormwater runoff. This requirement shall be to the satisfaction of the Director of Public Works.

**ADOPTION STATEMENT:** This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

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on \_\_\_\_\_

SUSAN PORTER, Planning Manager  
Regulatory Planning Division

SP:MC:tf

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